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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Adnan Khurshidullah MEHMOOD,
Plaintiff,
v.
John A. KELLY, Secretary of Homeland
Security;
Lori SCIALABBA, Acting Director, United
States Citizenship and Immigration
Services;¹
Andrew LAMBRECHT, Field Office
Director, Denver Field Office, USCIS
Defendants.)
Case No: 2:16-cv-1561-JAD-CWH
ORDER GRANTING
**JOINT MOTION TO DISMISS AND
REMAND**
ECF No. 15

The parties, by and through undersigned counsel, hereby move to dismiss the complaint and remand the case to United States Citizenship and Immigration Services (“USCIS”) for adjudication of Plaintiff Adnan Mehmood’s (“Mehmood”) application for naturalization. In support of this motion, the parties state as follows:

¹ On January 20, 2017, Lori Scialabba became Acting Director of U.S. Citizenship and Immigration Services, and John A. Kelly was sworn in as Secretary of Homeland Security, automatically substituting for Leon Rodriguez, former Director of USCIS and Jeh Johnson, former Secretary of Homeland Security, respectively, in accordance with Federal Rule of Civil Procedure 25(d).

1 1. This is a petition for *de novo* review of Mehmood's application for naturalization as a
2 United States Citizen under 8 U.S.C. § 1421(c). In his petition, Mehmood contends that he
3 meets all the requirements for naturalization as a United States citizen. *See generally* ECF No.

4 1. On September 23, 2016, Defendants filed their answer. ECF No. 8.

5 2. On November 8, 2016, the Court entered the Discovery Plan. In it, the Court ordered
6 that discovery be completed by March 22, 2017. ECF No. 13. During the discovery period, the
7 parties conducted discovery into issues related to Mehmood's eligibility for naturalization.

8 3. The parties, after reviewing the evidence uncovered during discovery, believe that there
9 are currently no known impediments to Mehmood's naturalization as a United States citizen.
10 Therefore, the parties believe that the case should be remanded to USCIS for adjudication of
11 Mehmood's application for naturalization.

12 4. The parties believe that a remand would facilitate a prompt, efficient, and economic
13 resolution of this matter without the need of further involvement by the Court. Under Ninth
14 Circuit law, this Court has exclusive jurisdiction over an application for naturalization after a
15 complaint seeking judicial review of an application for naturalization under 8 U.S.C. § 1421(c)
16 has been filed. *See United States v. Hovsepian*, 359 F.3d 1144, 1159-60 (9th Cir. 2004).
17 Therefore, a remand is necessary so that USCIS regains its authority to adjudicate Mehmood's
18 application for naturalization.

19 5. The Supreme Court cautioned that "[g]enerally speaking, a court . . . should remand a
20 case to an agency for decision of a matter that statutes place primarily in agency hands." *INS v.*
21 *Ventura*, 537 U.S. 12, 16-17 (2002). "This principle has obvious importance in the immigration
22 context . . . The agency can bring its expertise to bear upon the matter; it can evaluate the
23 evidence; it can make an initial determination; and, in doing so, it can, through informed
24 discussion and analysis, help a court later determine whether its decision exceeds the leeway
25 that the law provides." *Id.*

26 6. Mehmood must establish that he meets all the requirements for naturalization from five
27 years prior to filing the application for naturalization up to the moment that he takes the
28 naturalization oath. 8 U.S.C. § 1427(a)(1), (3); 8 C.F.R. § 316.10(a)(1). Consequently, the

1 parties understand that upon remand, USCIS may inquire into whether there are any new facts
2 that may render Mehmood ineligible for naturalization, and USCIS may request Mehmood to
3 appear for a naturalization interview. USCIS may also require Mehmood to submit new
4 biometrics.

5 7. The parties further agree that, in the event that USCIS were to deny Mehmood's
6 application for naturalization, Mehmood may request this Court to reinstate his complaint.

7 8. Each party shall bear their own costs and fees.

8 For the foregoing reasons, the parties request that this Court dismiss this matter and
9 remand to USCIS for further proceedings in accordance with this joint motion.

10 Respectfully submitted this March 20, 2017.

11 *For Plaintiff:*

12 /s/ Charles W. Bennion (with consent)
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24 **ORDER**

25 Based on the parties' joint request [15] and good cause appearing, IT IS HEREBY
26 ORDERED that the motion to dismiss [15] is GRANTED; this matter is dismissed and
27 remanded to the United States Citizenship and Immigration Services for adjudication of his
28 application for naturalization.